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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,786	07/16/2002	Klaus Ulrich Klosa	FREI.P-052	9616
68392	7590	11/15/2007		
Oppedahl Patent Law Firm LLC - Frei			EXAMINER	
P.O. Box 4850			FIELDS, COURTNEY D	
Frisco, CO 80443-4850				
			ART UNIT	PAPER NUMBER
			2137	
			NOTIFICATION DATE	DELIVERY MODE
			11/15/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket-oppedahl@oppedahl.com
office-mail@frei-patent.ch

Office Action Summary	Application No.	Applicant(s)	
	10/070,786	KLOSA ET AL.	
	Examiner	Art Unit	
	Courtney D. Fields	2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29,31,38-40,42-47,49,50 and 57-67 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29,31,42-47 and 57-65 is/are rejected.
- 7) ☒ Claim(s) 38-40,49,50,66 and 67 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 30, 32-37, 41, 48, and 51-56, have been cancelled.
2. Claims 59-67 have been added.
3. Claims 29, 57, and 58 have been amended.
4. Claims 29, 31, 38-40, 42-47, 49-50, 57-67 are pending.

Continued Examination Under 37 CFR 1.114

5. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 31 August 2007 has been entered.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

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Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7. Claims 29, 31, 43-45, 47, 57-60, 63-65 are rejected under 35 U.S.C. 102(e) as being anticipated by Cuylen (US Patent No. 7,064,552).

Referring to the rejection of claims 29, 57, 58, and 59, Cuylen discloses a method, mobile data carrier, and a read and write station wherein initialization data are generated in an authorization process in a secure environment at a remote authorization authority by means of authorization means (See Column 3, lines 45-67 and Column 4, lines 1-9)

and the initialization data are sent over a network in a secure communication according to security rules corresponding to the authorization system to an authorized read and write station (See Column 3, lines 3-23)

where the mobile data carriers are initialized with the initialization data and/or that the initialization data are over the network to a read and write station by means of which the read and write station is initialized to put into operation new data carriers, new applications of extension of applications (See Column 3, lines 24-36)

Referring to the rejection of claims 31, 48, and 60, Cuylen discloses the claimed limitation wherein the authorization means are consisting of special authorization identification media or authorization data (See Column 3, lines 37-41)

Referring to the rejection of claim 43,44,45,63, and 64, Cuylen discloses the claimed limitation wherein initialization a user authorization or personal data is effected

by the read and write station or by its owner an identification authorization means is required (See Column 3, lines 45-67, Column 4, lines 1-2)

Referring to the rejection of claim 47 and 65, Cuylen discloses the claimed limitation wherein the data carriers are designed as contact-less, active or passive identification media (See Column 3, lines 28-32)

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 42, 46, 49, 61, 62 and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cuylen (US Patent No. 7,064,552) in view of Sciupac (US Patent No. 6,871,278).

Referring to the rejection of claims 42 and 62, Cuylen discloses everything claimed as applied to claim 29, however Cuylen fails to explicitly disclose a public network with encryption. Sciupac discloses the claimed limitation wherein the initialization data are sent over an open public network with an encryption and security gates on both sides (See Column 6, lines 45-58)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Cuylen's mobile data carrier with Sciupac's passive storage media system, such as optical memory cards. Motivation for such an implementation would enable both hardware and software/firmware security measures

to deny unauthorized access to cryptographic keys and to prevent interception of decrypted data streams (See Column 2, lines 21-28)

Referring to the rejection of claim 46, Cuylen discloses everything claimed as applied to claim 29, however Cuylen fails to explicitly disclose an application micro-processor. Sciupac discloses the claimed limitation wherein the mobile data carriers comprise an application micro-processor for the processing of application program data (See Column 3, lines 20-33)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Cuylen's mobile data carrier with Sciupac's passive storage media system, such as optical memory cards. Motivation for such an implementation would enable both hardware and software/firmware security measures to deny unauthorized access to cryptographic keys and to prevent interception of decrypted data streams (See Column 2, lines 21-28)

Referring to the rejection of claims 49 and 61, Cuylen discloses everything claimed as applied to claim 29, however Cuylen fails to explicitly disclose an authorization authority formed by a host computer or by a read and write station. Sciupac discloses the claimed limitation wherein the authorization authority is formed by a host computer or by an authorization read and write station (See Column 4, lines 4-12)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Cuylen's mobile data carrier with Sciupac's passive storage media system, such as optical memory cards. Motivation for such an

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implementation would enable both hardware and software/firmware security measures to deny unauthorized access to cryptographic keys and to prevent interception of decrypted data streams (See Column 2, lines 21-28)

Referring to the rejection of claim 66, Cuylen discloses everything claimed as applied to claim 59, however Cuylen fails to explicitly disclose an authorization authority formed by a host computer or by a read and write station. Sciupac discloses the claimed limitation wherein the authorization authority is formed by a host computer or by an authorization read and write station (See Column 4, lines 4-12)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Cuylen's mobile data carrier with Sciupac's passive storage media system, such as optical memory cards. Motivation for such an implementation would enable both hardware and software/firmware security measures to deny unauthorized access to cryptographic keys and to prevent interception of decrypted data streams (See Column 2, lines 21-28)

Allowable Subject Matter

10. Claims 38-40, 50, and 67 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Courtney D. Fields whose telephone number is 571-

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272-3871. The examiner can normally be reached on Mon - Thurs. 6:00 - 4:00 pm; off every Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on 571-272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

cd

cdf
November 9, 2007

Matthew D. Smithers
MATTHEW SMITHERS
PRIMARY EXAMINER
Art Unit 2137